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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/741,792  | 12/19/2003  | Louis Brian Chapko   | P06247US01-PHI 1369 | 5592             |
| 27142   | 7590        | 08/29/2005           | EXAMINER            |                  |
| MCKEE, VOORHEES & SEASE, P.L.C.<br>ATTN: PIONEER HI-BRED<br>801 GRAND AVENUE, SUITE 3200<br>DES MOINES, IA 50309-2721 |             |                      | MEHTA, ASHWIN D     |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 1638                |                  |

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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12/19/2003

Chapko

PO62470501-PH11369

EXAMINER

Mehta

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| ART UNIT | PAPER |
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08232005

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**Commissioner for Patents**

In December 2004, Applicants submitted an Appeal Brief in which claims 41 and 42 were appealed over their final rejection in parent U.S. Application 09/759,755. However, this brief will not be considered at this time because its submission is premature. Applicants for patent are entitled to file an appeal in a continuing application if a claim has been twice or finally rejected in the parent application and again rejected in the continuing application. MPEP 1205. A first Office action on the merits has yet to be completed for the instant application.

Any inquiry concerning this communication from the Examiner should be directed to Ashwin Mehta, whose telephone number is 571-272-0803. The Examiner can normally be reached from 8:00 A.M. to 5:30 P.M. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Gary Jones, can be reached at 571-272-0745. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300. Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

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Ashwin D. Mehta, Ph.D.  
Primary Examiner  
Art Unit 1638

August 23, 2005